

EXHIBIT M

Creedon v. Forest Electric and Banc One Building Corp
Street, Fred (Rough)
5/30/2006

Printed : 7/13/2006

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1 UNEDITED DRAFT TRANSCRIPT
 2 (REPORTER'S NOTE: Since this deposition has
 3 been real-timed and is in rough draft form, please be
 4 aware that there is a discrepancy regarding page and
 5 line numbers when comparing the real-time screen, the
 6 rough draft, rough ASCII, and the final document.
 7 Also please be aware the real-time screen
 8 and the unedited, uncertified rough draft
 9 transcript/ASCII may contain untranslated steno, an
 10 occasional reporter's note, a misspelled proper name,
 11 and/or nonsensical English word combinations. All
 12 such entries will be corrected on the final, certified
 13 transcript.
 14 We, the party working with real-time,
 15 understand that if we choose to use the real-time
 16 rough draft screen, ASCII or printout, that we are
 17 doing so with the understanding the rough draft is an
 18 uncertified copy. We understand the real-time rough
 19 draft may not be used as a final transcript for any
 20 purpose including, but not limited to, being quoted
 21 from or being filed with any court, but is only to
 22 enhance notetaking.
 23 We further agree not to share, give, copy,
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 any party. However, our own experts, co-counsel, and
 staff may have limited internal use of same with the
 understanding that we agree to destroy our real-time
 rough draft and/or any computerized form, if any, and
 replace it with the final transcript and/or any
 computerized form upon its completion.
 (In re: Creedon v. Banc One)
 (C.A. No. 05-CV-300-JJF)
 (Deposition of: FRED STREET)
 (Taken on: May 30, 2006)

1 Building Corporation.
 2
 3 Witness,
 4 the deponent herein, having first been duly
 5 sworn on oath, was examined and testified as
 6 follows:
 7 THE WITNESS: I do.
 8 BY MR. McDONALD:
 9 Q. Morning, Mr. Street.
 10 A. Morning.
 11 Q. We must jet briefly a second ago. Again, my
 12 name is Paul McDonald. I represent the defendant,
 13 Banc One Building Corporation. Have you ever been
 14 deposed before?
 15 A. Yes.
 16 Q. Okay, so you're familiar with how these things
 17 basically proceed then?
 18 A. Yes.
 19 Q. Okay. Obviously I will ask you questions. If
 20 you don't understand them, you understand that you can
 21 let me know that?
 22 A. Yes.
 23 Q. And you understand that you're to answer
 24 verbally so that this can be taken down as a

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1 THE VIDEOGRAPHER: This is the videotape
 2 deposition of Mr. Fred Street taken by the defendant
 3 in the matter of Creedon Controls incorporated, a
 4 Delaware corporation, plaintiff, versus Banc One
 5 Building Corporation, an Illinois corporation, and
 6 Forest Electric Corporation, a New York Corp.,
 7 defendants, civil action number 05-CV-300. This
 8 deposition is being held in the offices of Ashby &
 9 Geddes, Wilmington, Delaware, on May 30th, 2006. We
 10 are going on the record at approximately 9:32 a.m.
 11 The court reporter is Julie Parrack from
 12 the firm of Wilcox & Fetzer, Wilmington, Delaware. My
 13 name is Lindsay DuPhily, and I am the videotape
 14 specialist of Discovery Video Services in association
 15 with Wilcox & Fetzer.
 16 Counsel will now introduce themselves and
 17 then the court reporter will swear in the witness.
 18 MR. BESTE: Robert Beste with Cohen
 19 Seglias, Pallas, Greenhall & Furman, attorneys for
 20 Creedon Controls, Inc.
 21 MR. BRADLEY: Paul Bradley, McCarter &
 22 English, on behalf of Forest Electric.
 23 MR. McDONALD: Paul McDonald of Paul,
 24 Hastings, Janofsky & Walker on behalf of Banc One

1 transcript?
 2 A. Yes, I do.
 3 Q. Even though we have a video here, still any
 4 type of movements can be interpreted a number of ways.
 5 So I want to be sure you understand that?
 6 A. Yes.
 7 Q. And you also understand from time to time your
 8 attorney may object. If that's the case, you can wait
 9 until after the objection has been made. If there is
 10 an instruction not to answer, we can then, your
 11 counsel and I will talk about that. Otherwise, you
 12 understand you're to answer; is that correct?
 13 A. Yes.
 14 Q. Okay. Also you understand that if there's a
 15 question that calls for you to speculate or anything
 16 of that nature, something that you're not able to
 17 understand, again, please let me know that.
 18 A. Absolutely.
 19 Q. Okay. Is there anything that, anything that
 20 you've done or you had today that you think will
 21 affect your ability to understand what's proceeding
 22 here today?
 23 A. No.
 24 Q. Okay. All right, I want to start off talking

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1 it affect your work on night shift from November 13th
 2 through December 10th?
 3 A. Basically everybody had to carry a flashlight
 4 to go to work or to go to the bathroom.
 5 Q. And is there any delay that you attribute to
 6 that?
 7 A. I would say not delay, but added expense. We
 8 had to supply flashlights for our whole crew.
 9 Q. And do you know what happened to that added
 10 expense or added cost?
 11 A. No, sir.
 12 Q. Okay, moving to the next page, 005498, there's
 13 a notation at December 16th, I believe, that says all
 14 material and in building now, no trailer or boxes on
 15 site." Is that referring back to the other issue we
 16 discussed earlier, in terms of where the material was?
 17 A. Yes, this, this is now, we were directed that
 18 there be no more material outside. Everything had to
 19 be moved inside. No more trailers, no more box
 20 trailers or storage. Everything had to move inside.
 21 Q. Okay. And what effect did that have on your
 22 work, if any?
 23 A. Just about brought everything to a halt.
 24 Tremendous impact.

1 that?
 2 A. Grading for the excavation contractor.
 3 Q. Okay. This is related to the excavation
 4 contractor, as far as you understand?
 5 A. Yes.
 6 Q. Okay. But this does not -- or maybe I should
 7 ask the question, does this relate to the issue with
 8 the grading contractor that you described earlier?
 9 A. Same contractor.
 10 Q. Okay. But is this issue a part of the problem
 11 you described earlier that I believe you testified
 12 ended in November of 2003, or is this a separate
 13 issue?
 14 A. This is a separate issue.
 15 Q. Okay.
 16 A. This is the same contractor.
 17 Q. Of the two issues you described of the --
 18 excuse me. Try to say it a little slower. Excavation
 19 contractor, the issue described earlier and this issue
 20 now that's in December of 2003, which one did you
 21 consider to be more impact full?
 22 A. This issue, but let's -- I want to make one
 23 thing clear. It's not -- I'm not blaming the
 24 excavation contractor for this impact. Material was

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1 Q. Okay. And when you say brought everything to a
 2 halt, how long did that, I guess that impact or that
 3 standstill or whatever you want to call it, how long
 4 did that last?
 5 A. Basically it was ongoing.
 6 Q. Okay. Now, if it was ongoing, how did you
 7 adjust to that issue of the material now being inside
 8 the building?
 9 A. Go back to just like the very beginning, you
 10 have to move everything out of your way to be able to
 11 perform your job task.
 12 Q. You say you were instructed to do that, who
 13 gave you that instruction?
 14 A. I was told about this by our daytime general
 15 foreman.
 16 Q. And who was that?
 17 A. At this time that would have been Mr. Rob
 18 Sharp.
 19 Q. And what's your understanding as to why you
 20 were instructed to move the material into the
 21 building?
 22 A. I was told this was a directive by Tishman so
 23 they could do site work.
 24 Q. When you say site work, what do you mean by

1 simply moved out of his way so he could perform his
 2 job. But it impacted everybody on this job, not just
 3 me.
 4 Q. Now, the other issue you described earlier that
 5 you said ended in November of 2003, was that an issue
 6 similar where you don't blame the excavation
 7 contractor or was that something that the excavation
 8 contractor --
 9 A. That's correct. He was directed how to do his
 10 work, just like everybody else on that job.
 11 Q. Okay. And in fact, the problems that we
 12 discussed earlier, whether they be with the excavation
 13 contractor or the drywall contractor, the laborers,
 14 what's your understanding as to whether or not they
 15 were instructed to do any of those things?
 16 A. My understanding is absolutely they were
 17 instructed.
 18 Q. Okay. And what's your understanding as to who
 19 instructed them, if anyone?
 20 A. Tishman.
 21 Q. Okay. And where do you have, where do you get
 22 that understanding?
 23 A. The laborers worked for Tishman.
 24 Q. Okay. And in terms of the drywall contractor,

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1 what's your understanding as to --
 2 A. They worked for Tishman also.
 3 Q. Okay. And the excavation contractor?
 4 A. Worked for Tishman.
 5 Q. Okay. Now, is there a distinction you're
 6 drawing between people who worked for Tishman versus
 7 someone else? Do you understand what I'm saying? Is
 8 there, are there people who work for someone other
 9 than Tishman that you dealt with?
 10 A. Was my understanding that Creedon worked for
 11 Forest Electric.
 12 Q. Okay. And did you, was your understanding that
 13 anyone else that you dealt with in terms of
 14 contractors, and again, maybe I should back up for a
 15 second. You talked earlier about there being 7
 16 contractors that you worked with throughout 2357. Is
 17 that, that's correct, is that --
 18 A. 7 contractors that I had to coordinate with.
 19 Q. Okay. Had you coordinate with, okay. And of
 20 those 7, how many worked for Forest Electric based
 21 upon your understanding, how many worked for Tishman,
 22 and how many worked for anyone else, for that matter?
 23 MR. BRADLEY: Object to form.
 24 A. My recollection, that all the electrical

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1 contractors worked for Forest Electric.
 2 Q. And that would be Creedon and --
 3 A. Are Furness Electric and Conti.
 4 Q. Okay. And regarding the five additional
 5 contractors, now I'm subtracting Furness and Conti
 6 from the 7, what's your understanding as to who they
 7 worked for?
 8 A. Tishman.
 9 Q. And again, that understanding is based upon
 10 anything that you were told or that you saw or?
 11 A. Basically what I was told and saw, who was
 12 directing the work.
 13 Q. Okay. And in terms of Tishman, who was on site
 14 for Tishman who you saw directing any work?
 15 A. There again, I don't recall the people that
 16 worked for Tishman, their names. But during the
 17 course of the job, they were out on the job site and
 18 directed contractors.
 19 Q. Okay. But they never directed Creedon, is that
 20 a fair thing to say?
 21 A. That is true.
 22 Q. Okay. And you never got directions directly
 23 from someone from Tishman?
 24 A. No.

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1 Q. No, meaning that you never did or --
 2 A. Never did.
 3 Q. Okay. Moving on to page 005409, which is
 4 December 18th, looking at December 18th notation, it
 5 says "too cold for" what is that, do you see where I
 6 am?
 7 A. Yes.
 8 Q. "Too cold for" --
 9 A. The reaches, our high reaches, batteries will
 10 not charge.
 11 Q. Okay. What, what was that problem about?
 12 A. We were constantly being accused of using other
 13 contractors' reaches and not plugging them in. This
 14 was just, I went out and did a survey, and the problem
 15 is that the batteries, as cold as it was in that
 16 building, will not charge in a, you know, 12-hour or
 17 14-hour period that they were giving them to charge.
 18 And absolutely nothing to do with them not being
 19 plugged in, it's a physical problem with the lead acid
 20 battery.
 21 Q. Okay, when you say they were giving them the
 22 charge, who is the "they" you're referring to?
 23 A. Everybody. All, because at this point the only
 24 people that were on night shift was Furness and

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1 Creedon. So because Furness was working on the
 2 underground, it was pretty obvious we were the only
 3 ones that were using high reaches. So we were being
 4 blamed for anything that was going on. It's, like I
 5 say, this is just a notation to myself that I looked
 6 into their problem and called them, called the
 7 manufacturer the next day and found out that's the
 8 problem. It's too cold.
 9 Q. Okay, when you say that Creedon was being
 10 blamed, who was, who was blaming Creedon for this
 11 problem?
 12 A. Forest Electric. They were, they complained to
 13 Forest about us.
 14 Q. When you say they, are you talking about other
 15 contractors?
 16 A. The other contractors.
 17 Q. Okay. Do you know which contractors were
 18 complaining?
 19 A. Not in particular. Everybody had a reach there
 20 I think was complaining.
 21 Q. And were you contacted by Forest Electric?
 22 A. Yes.
 23 Q. Okay. And who contacted you?
 24 A. Mr. Len Beck.